

UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO

-----X

FAHAD GHAFAR,

*Plaintiff,*

No. 3:23-cv-01455-CVR

- against -

JOHN PAULSON, PAULSON PRV HOLDINGS,  
LLC, AND J.P. MORGAN TRUST COMPANY OF  
DELAWARE AS TRUSTEE OF THE PAULSON  
2009 FAMILY TRUST,

*Defendants.*

-----X

**DEFENDANTS JOHN PAULSON AND PAULSON PRV HOLDINGS, LLC'S  
OPPOSITION TO PLAINTIFF'S MOTION FOR LEAVE TO FILE A SUR-REPLY**

**TO THE HONORABLE COURT:**

Defendants John Paulson ("Paulson") and Paulson PRV Holdings, LLC ("PRV" and collectively, the "Paulson Defendants"), by their undersigned counsel, respectfully submit this opposition to Plaintiff Fahad Ghaffar's ("Ghaffar") motion for leave to file a sur-reply in connection with the Paulson Defendants' motion to dismiss. In opposition, the Paulson Defendants state:

1. The Court should deny Ghaffar's improper request for leave to file a sur-reply because the Paulson Defendants did not raise new arguments in their reply brief in further support of their motion to dismiss.
2. In their moving brief, the Paulson Defendants demonstrated that Ghaffar's claims for securities fraud should be dismissed because, among other things, the Convertible Note at issue is not a security. Dkt. 28 at 11-13.

3. In opposition, Ghaffar argued that the Convertible Note is a security pursuant to the holdings of *Reves v. Ernst & Young*, 494 U.S. 56 (1990). Dkt. 59 at 12-18.

4. In reply, the Paulson Defendants argued that the holding in *Reves* further supported the conclusion that the Convertible Note is not a security. Dkt. 79 at 5-6.

5. Thus, the Paulson Defendants did not raise any new arguments in reply, but simply responded to Ghaffar's argument in opposition.

6. This is the exact purpose of reply papers. Indeed, it is well-settled in the First Circuit that a party may “use a reply brief to clarify arguments previously made or to respond to an argument an opposing party raises in an opposition.” *Smith v. Liberty Mut. Ins. Co.*, 2021 U.S. Dist. LEXIS 78307, \*9 (D. Mass Apr. 22, 2021) (internal citations omitted) (reply proper because “Liberty Mutual’s reply brief properly responds to arguments raised by Plaintiff in her opposition”); *Velcro Indus. B.V. v. Taiwan Paiho, Ltd.*, 2005 U.S. Dist. LEXIS 23593, \*24 (D.N.H. Oct. 13, 2005) (“The court discerns nothing ‘new’ in the reply, which responds to the claim construction argument Velcro set forth in its opposition to the motion for summary judgment. This is entirely consistent with the purpose of a reply brief.”).

7. As such, Ghaffar is not entitled to a second bite at the apple by filing a sur-reply. *See Aero Union Corp. v. Aircraft Deconstructors Int’l LLC*, 2012 U.S. Dist. LEXIS 120276, \*32 (D. Maine Aug. 24, 2012) (“Because the arguments raised in its reply are in response to Aero Union’s own arguments in opposition, none of EADS-CASA’s reply arguments is truly new. As Aero Union itself initiated all three, it has had ample opportunity to contest the matters at issue. A surreply is not appropriate.”); *Smith*, 2021 U.S. Dist. LEXIS 78307 at \*9-10 (defendants “reply brief responds directly to Plaintiff’s ratification arguments rather than raising a new theory for the

first time on reply ... Plaintiff cites no authority that holds that a reply brief is limited to referencing only the cases cited in the opposition”).

**WHEREFORE**, the Paulson Defendants respectfully request the Court deny Ghaffar’s motion.

Dated: New York, New York  
December 22, 2023

/s/ Juan J. Casillas Ayala

Juan J. Casillas Ayala  
CASILLAS SANTIAGO TORRES LLC  
*Local Counsel for the Paulson  
Defendants*  
PO Box 195075  
San Juan, Puerto Rico 00919-5075  
Tel. 787.523.3434  
jcasillas@cstlawpr.com

/s/ Andrew Urgenson

Terrence A. Oved (*admitted pro hac vice*)  
Darren Oved (*admitted pro hac vice*)  
Andrew J. Urgenson (*admitted pro hac vice*)  
Glen Lenihan (*admitted pro hac vice*)  
OVED & OVED LLP  
*Counsel for the Paulson Defendants*  
401 Greenwich Street  
New York, New York 10013  
Tel: 212.226.2700  
*terry@oved.com*  
*darren@oved.com*  
*andrew@oved.com*  
*glenihan@oved.com*

UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO

-----X  
FAHAD GHAFAR,

*Plaintiff,*

- against -

No. 3:23-cv-01455-CVR

JOHN PAULSON, PAULSON PRV HOLDINGS,  
LLC, AND J.P. MORGAN TRUST COMPANY OF  
DELAWARE AS TRUSTEE OF THE PAULSON  
2009 FAMILY TRUST,

*Defendants.*

-----X

**CERTIFICATE OF SERVICE**

WE HEREBY CERTIFY that, on this date, we electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to attorneys of record for the parties.

Respectfully submitted, in New York, New York, on December 22, 2023.

*Local Counsel for the Paulson Defendants*



WWW.CSTLAWPR.COM  
PO Box 195075  
San Juan, PR 00919-5075  
Tel.: (787) 523-3434  
Fax: (787) 523-3433  
jcasillas@cstlawpr.com

**s/JUAN J. CASILLAS-AYALA**  
USDC PR NO. 218312

*Counsel for the Paulson Defendants*

/s/Andrew J. Urgenson  
Terrence A. Oved (admitted *pro hac vice*)  
Darren Oved (admitted *pro hac vice*)  
Andrew J. Urgenson (admitted *pro hac vice*)  
Glen Lenihan (admitted *pro hac vice*)  
Andrew L. Kincaid (*pro hac vice* application forthcoming)  
OVED & OVED LLP  
401 Greenwich Street  
New York, New York 10013  
Tel: 212.226.2700  
terry@oved.com  
darren@oved.com  
andrew@oved.com  
glenihan@oved.com  
akincaid@oved.com